

PT 97-3
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

IMMANUEL BIBLE FOUNDATION)		
Applicant)		
)	Docket #	94-57-36
v.)		94-57-37
)	Parcel Index	#14-33-256-003
THE DEPARTMENT OF REVENUE)		14-33-255-012
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Thomas M. Barger, III appeared on behalf of the Immanuel Bible Foundation.

Synopsis:

The hearing in this matter was held at 101 West Jefferson Street, Springfield Illinois, on April 11, 1996, to determine whether or not McLean County parcels numbered 14-33-256-003 and 14-33-255-012 qualified for exemption during the 1994 assessment year.

Mr. Michael J. Krippel, the director of Immanuel Bible Foundation, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include first, whether the applicant was the owner of these parcels during the 1994 assessment year. The second issue is whether the applicant is a religious and charitable organization. The last issue is whether these parcels were used by the applicant for religious, charitable or exempt purposes during the 1994 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned these parcels during all of the 1994 assessment year. It is also determined that the applicant is a religious and charitable

organization. Finally, it is determined that the applicant used these parcels for religious, charitable or exempt purposes during all of the 1994 assessment year.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in these matters, namely that the parcels here in issue did not qualify for exemption during the 1994 assessment year, was established by the admission in evidence of Department's Exhibits 1 through 5A.

2. On March 27, 1995, the McLean County Board of Review transmitted Applications for Property Tax Exemption To Board of Review, concerning these parcels for the 1994 assessment year, recommending that these parcels be exempt, to the Department. (Dept. Ex. Nos. 1 & 1F)

3. On December 22, 1995, the Department notified the applicant that it was denying the exemption of these parcels for the 1994 assessment year. (Dept. Ex. Nos. 2 & 2A)

4. By a letter dated January 11, 1996, the applicant's attorney requested a formal hearing in these matters. (Dept. Ex. No. 3)

5. The hearing in these matters, held on April 11, 1996, was held pursuant to that request.

6. The applicant was incorporated pursuant to the "General Not For Profit Corporation Act" of Illinois on January 21, 1944, for the following purposes:

- a. For Christian Educational purposes.
- b. To render instruction of the Holy Bible, Sacred Music, and Sacred Drama to youth and all adults who desire such instruction.
- c. The study of the Holy Bible to be without limitation by creed, denomination or sect.
- d. The lectures to be directed to the building of Christian Citizenship. (App. Ex. No. 1)

7. The primary parcel of the applicant, which is not here in issue, is improved with a former four story residence, which is used by the applicant as its offices and for various church meetings, including use as a day retreat center for area church groups. Parcel No. 14-33-256-003 is adjacent to and

constitutes the west part of the yard of that primary parcel. Consequently Parcel No. 14-33-256-003 is used as a part of the retreat center area, for contemplation and reflection. There is a picnic table there, and small groups meet there under the trees, weather permitting. (Tr. pp.12 & 13, Dept. Ex. No. 1)

8. In addition to day retreats, the building on the primary parcel is also used for Bible studies, prayer meetings and leadership meetings. (Tr. p. 14)

9. During 1994, the applicant hosted a weekly men's Bible study and also a weekly women's Bible study at the building on the primary parcel. (Tr. p. 15)

10. During 1994, the applicant hosted approximately 340 meetings at the building on the primary parcel with from a few up to 20 or 30 people at each meeting. (Tr. pp. 15 & 17)

11. During 1994, the applicant did not charge for the use of the building on the primary parcel for meetings. (Tr. p. 21)

12. There are about 10 parking spaces on the primary parcel. There is additional parking on Highland Avenue. (Tr. pp. 13 & 14)

13. Parcel No. 14-33-255-012 is located across Highland Avenue from the primary parcel. When larger groups are meeting on the primary parcel, Parcel No. 14-33-255-012 is used by the applicant for overflow parking, weather permitting. (Tr. pp. 13 & 14)

14. The building on the primary parcel, in addition, houses a sacred music lending library which is primarily geared to the smaller church. As a part of the sacred music lending library, the applicant, in late August of each year, conducts a music clinic to familiarize the approximately 170 library members with the available music, which includes the music which has been recently purchased. (Tr. pp.15 & 16)

15. During 1994, the membership fee to belong to the sacred music lending library was \$35.00 per year. It is applicant's policy to waive this membership fee in cases of need. During 1994, there was no charge for late returns to the

music library. Applicant uses the membership fee to pay the postage and the supplies used by the library. (Tr. pp. 19 & 20)

16. During 1994, the applicant sponsored a laymen's Lenten breakfast and also prior to the Christmas season, a women's holiday breakfast. During 1994, the laymen's breakfast was held at the Illinois State University Student Center Ballroom and the women's breakfast was held at the Bloomington-Normal Consistory. (Tr. pp. 15 & 23)

17. The evidence in the record indicates that the McLean County Board of Review considers the primary parcel in these matters to be exempt. (Dept. Ex. No. 1T)

18. The record also includes a portion of an abstract which shows a Quit Claim Deed conveying the parcels here in issue from Margaret L. Van Leer to the applicant dated January 25, 1944. (Dept. Grp. Ex. No. 1L, p.3)

19. Based on the foregoing I find that the applicant owned McLean County Parcel Nos. 14-33-256-003 and 14-33-255-012 during the entire 1994 assessment year.

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes,...and not leased or otherwise used with a view to profit, is exempt,....

35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity;

(b) beneficent and charitable organizations incorporated in any state of the United States....

35 **ILCS** 200/15-125 provides in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any...religious...institution which meets the qualifications for exemption, are exempt.

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

The purposes of the applicant as stated in its Articles of Incorporation and set forth in the findings of fact, clearly establish that the applicant was organized for religious purposes. The Illinois Courts have concluded that the character and purpose for which a corporation is organized must be ascertained from its Articles of Incorporation. People v. Wyanett Light Co., 306 Ill. 377 (1922) and also Rotary International v. Paschen, 14 Ill.2d 480 (1958). I also conclude that the applicant during 1994 engaged in activities which were religious in nature.

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down five guidelines to be used in determining whether or not an organization is charitable. Those five guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes

expressed in its charter; (4) charity is dispensed to all who need and apply for it; and (5) no obstacles are placed in the way of those seeking the benefits. Based on the foregoing findings of fact, I conclude that the applicant has established that it is a charitable organization.

Based on the foregoing, I conclude that the applicant owned McLean County Parcel No. 14-33-256-003 during the entire 1994 assessment year. I further conclude that the applicant is a religious and charitable organization, and that it used this parcel for religious purposes during 1994, namely for outside retreat activities, weather permitting.

I also conclude that the applicant owned McLean County Parcel No. 14-33-255-012 during the entire 1994 assessment year. Finally, I conclude that the applicant is a religious and charitable organization, and that it used this parcel for overflow parking purposes, weather permitting, during the 1994 assessment year.

I therefore recommend that McLean County Parcel Nos. 14-33-256-003 and 14-33-255-012 be exempt from real estate taxation for the 1994 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
January 30, 1997